

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA  
MARTINSBURG

FILED

MAR 8 - 2007

U.S DISTRICT COURT  
MARTINSBURG, WV 25401

UNITED STATES OF AMERICA,

Plaintiff,

v.

CRIMINAL NO. 3:02CR31  
(STAMP)

CALVIN LEROY BROWN, JR.,

Defendant.

**ORDER ADOPTING REPORT AND RECOMMENDATION AND REVOKING SUPERVISED  
RELEASE**

On January 17, 2007, United States Magistrate Judge David J. Joel conducted a final hearing on the Probation Officer's Petition to Revoke Supervised Release (Doc. 42). As indicated in the petition, the defendant allegedly violated the terms of his supervised release by committing another federal state or local crime. At the hearing, the United States presented evidence establishing that the alleged violation did in fact occur. Furthermore, the Magistrate Judge noted that on March 8, 2006 the Court previously imposed a twelve month and one day suspended sentence on the defendant for prior violations of supervised release (Doc. 39). On February 8, 2007, Magistrate Judge Joel issued his written Report and Recommendation (Doc. 53) recommending that the suspended sentence be reimposed, that the defendant be given credit for time served from November 3, 2006, and that no term of supervised release follow defendant's term of

incarceration.

Magistrate Judge Joel's Report and Recommendation informed the parties that they could file written objections within 10 days of service, and warned that a failure to file objections would waive the party's appellate rights should this Court adopt the Magistrate Judge's recommendations. 28 U.S.C. § 636(b)(1); Thomas v. Arn, 474 U.S. 140 (1985).

To date, neither party has filed objections to the Report and Recommendation. Pursuant to 28 U.S.C. § 636(b)(1)(c), this Court is required to make a *de novo* review of those portions of the Magistrate Judge's findings to which objection is made. However, failure of the parties to file objections to the proposed findings and recommendation of the Magistrate Judge enables the district court to review the same under the standards which the district court believes are appropriate. Under the current circumstances, the Court believes the parties have waived their right to *de novo* review. See Webb v. Califano, 468 F. Supp. 825 (E.D. Cal. 1979). Accordingly, this Court reviews the Report and Recommendation of the Magistrate Judge (Doc. 53) for clear error.


As a result of the clear error review, the Court is of the opinion that the Magistrate Judge's Report and Recommendation (Doc. No. 53) should be, and is hereby, **ORDERED** adopted. As such, the Court now **REVOKES** the defendant's supervised release, and **REINSTATES** defendant's previous suspended sentence of twelve

months and one day. Furthermore, the Court recommends to the Bureau of Prisons that the defendant receive credit for time served since November 3, 2007. A Judgment and Commitment Order shall follow.

It is so **ORDERED**.

The Clerk is directed to transmit true copies of this Order to the defendant, all counsel of record, and the appropriate agencies.

**DATED** this 6<sup>th</sup> day of March, 2007.

  
**FREDERICK P. STAMP, JR.**  
**UNITED STATES DISTRICT JUDGE**